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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,148	03/31/2000	Peter T Fry	80934F-P	1747

1333 7590 10/01/2003

PATENT LEGAL STAFF  
EASTMAN KODAK COMPANY  
343 STATE STREET  
ROCHESTER, NY 14650-2201

EXAMINER
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CHANG, SABRINA A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/540,148

Applicant(s)

FRY ET AL.

Examiner

Sabrina Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 10-17, 20-27, 30 and 40-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-17, 20-27, 30, 40-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

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## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendments to claims 1, 11, 21 and cancellation of claims 8, 9, 18, 19, 28, 29, and 31-39 have been considered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7, 10-17, 20-27, 30, and 40-76 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 11-17, 21-27, and 40-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoekstra et al. U.S. Patent No. 6,304,277.

Hoekstra et al. discloses a system and method for more efficient modification of digital images. Hoekstra et al. discloses that the outsourcing of digital image modification - by transmitting high-resolution digital images from an image creator to an image processor, via any type of data transmission line, and having the processor return a modified image - is well-known in the art [Background of the Invention]. However, transferring high-resolution digital images is slow "point to point" [Col 1, Line 53]. The invention disclosed in the art of record seeks to eliminate inefficiencies and delays caused by the transmission of high-resolution images [Col 5, Line 3].

An image creator generates a high-resolution image at their location. The point of creation can include photo studios having digital photographic equipment (where the device capturing the image is a camera), design firms having desktop scanning capabilities (where the device is a scanner) or photo labs having compact disk image generation facilities (where the device is a CD) [Col 4, Line 12]. The creator then can make a compressed, low-resolution proxy of his/her original/high-resolution image file (obtaining a low resolution digital image file and a high resolution digital image file) [Col 2, Line 34]. The proxy image is generated using any number of commercially available compression techniques, such as those found within any number of software packages (user using software with respect to said image) [Col 4, Line 44].

The proxy low-resolution image is transferred from the creator's computer to the processor's computer, via a communications network (transmitting image file to a photoservice provider over a communications network) [Col 2, Line 53]. With the low-resolution image, the image creator sends a job ticket-which enumerates the corrections and/or image desired (metadata transferred with the low-resolution image) [Col 5, Line 15].

The image service provider at a remote location then decompresses the proxy low-resolution file, reviews the creator's job ticket and generates a script of modifications (service provider providing feed back to user based on image file, inherently comprising a negative message if the image is of insufficient quality for reproduction) [Col 2, Line 55]. These modifications are sent back to the image creator who then applies the script to the original, high-resolution image to produce a corrected high-resolution digital image [Col 5, Line 55].

High resolution and low resolution are, by definition relative. Hoekstra et al. explicitly discloses that the high resolution and low-resolution files referred to may vary greatly in size and

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in some instances overlap (low-resolution image is not greater than 200 x 150, where the high res is no less than 780 x 560, where low res is no greater than 50% of high resolution image) [Col 4, Line 32].

In specific reference to claims 1, 5 – 7, 11, 15 –17, 21, 25 – 27, 40, 50, 54 – 56 Hoekstra et al. does not explicitly does not comprise placing an order for goods with respect to the image, where the photoservice provider fulfills the order – i.e. the photoservice provider is a photofinisher.

A reference is reasonably pertinent if even though it may be in a different field from that of the inventor's endeavor, it is one which because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. Wang Laboratories Inc. v. Toshiba Corp., 993 F. 2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993). While the system of Hoekstra et al. does not specifically pertain to the modification of images for commercial purchase, it does relate specifically to the modification of images for commercial/public use [Col 1, Line 30]. Hoekstra et al. specifically includes a commercial element – i.e. the relationship between the image creator and the photoservice provider [Col 2, Line 17]. Hoekstra et al. and the applicant's invention both fall within the same general field - image processing - and more importantly seek to solve a similar problem – i.e. eliminating the inefficiencies and troubles involved in transmitting a high resolution image [Col 5, Line 3].

Applicant discloses that transmission of images over a communications network for remote processing and eventual purchase is notoriously well known in the art of photofinishing services [Specification, Background of the Invention].

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In that the image creator is already paying for the services of the photo-processing service, to modify and alter his/her original images, it therefore would have been obvious to one skilled in the art at the time to modify the efficient image transfer and processing system of Hoekstra et al. to include another commercial element, allowing the image creator to purchase their modified image from the remote photoservice provider, as well known in the art of photofinishing services. This would provide an image creator with a more streamlined, cost and time-effective method of obtaining commercially/publically useable images.

Claims 10, 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoekstra et al. U.S. Patent No. 6,304,277, as applied in claims 1, 11, and 21, in view of Sacca U.S. Patent No. 6,380,967.

Hoekstra et al. does not explicitly disclose that the transmission of high-resolution image may be interrupted and resumed at the same place where transmission was interrupted.

Sacca shows a method for consistent transmission of image data. Given the unreliability of communications' networks it would have been obvious to modify the system of Hoekstra et al. to provide consistent transmission of image data, as taught by Sacca, in order to maintain customer satisfaction and prevent any frustration involved at having to restart the image transmission process.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703 308 1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC

  
WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600